HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15639 of 2002

Dated 11th July, 2007

Between

Dwarampudi Venkatreddy

…Petitioner

and

The Commissioner of Labour, Govt. of AP, Hyderabad,
and anr.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15639 of 2002

ORDER:

This Writ Petition is filed challenging the demand notice dated 12-8-2002 in proceedings RC.No. 614/2002 issued by the second respondent, where by, the petitioner was directed to deposit an amount of Rs.20,000/- by way of Demand Draft in favour of the Child Labour Rehabilitation cum Welfare Fund of East Godavari District.

The said demand notice was issued on the ground that the Assistant Labour Officer and Inspector under the Labour (P & R) Act, second respondent herein, inspected the premises of the petitioner and found that a child, by name, Katani Suresh, was employed by the petitioner in the process of brick making in contravention of the provisions of the Child Labour (Prohibition and Regulation) Act, 1986.

This Writ Petition is filed mainly on the ground that the impugned demand notice was not preceded by any show cause notice and opportunity, and, further, on the ground that there is no such power conferred on the Assistant Labour Officer & Inspector to demand the petitioner to pay compensation straight away.

At the stage of admission, this Court by order dated 21-8-2002 granted interim stay of the demand notice dated 12-8-2002.

Though the Writ Petition is of the year 2002, no counter affidavit is filed on behalf of the respondents.

It is submitted by the learned Counsel for the petitioner that the petitioner has not employed any child in his brick making unit and the second respondent has no power or jurisdiction to impose penalty or demand compensation without following the procedure as contemplated under Section 16 of the Child Labour (Prohibition and Regulation) Act, 1986. It is further submitted that in any event, such demand of payment of penalty or compensation cannot be made unless the petitioner is given an opportunity of hearing before making such a decision.

A perusal of the impugned demand notice, it appears that there is no reference of issuance of show cause notice or prior opportunity to the petitioner. As much as compensation is sought to be demanded on the ground that the petitioner has employed a child in contravention of the provisions of the Child Labour (Prohibition and Regulation) Act, 1986, unless prior opportunity is given, the respondents cannot levy such penalty. On the short ground that the impugned demand notice dated 12-8-2002 issued to the petitioner is in violation of the principles

of natural justice, the same is hereby quashed.

The Writ Petition is accordingly allowed . No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 11-7-2007.
Msnr.